

CONTRACT #3
RFS # 348.00-248

**Tennessee Bureau of
Investigation**

VENDOR:
**South Carolina Research
Authority**

REQUEST: NON-COMPETITIVE CONTRACT

RECEIVED

FEB 16 2007

FISCAL REVIEW

APPROVED

Commissioner of Finance & Administration

Date:

Each of the request items below indicates specific information that must be individually detailed or addressed as required. A request can not be considered if information provided is incomplete, non-responsive, or does not clearly address each of the requirements individually as required.

1) RFS #	348.00-248	
2) State Agency Name :	Tennessee Bureau of Investigation	
3) Service Caption :	Records Management Oversight	
4) Proposed Contractor :	South Carolina Research Authority	
5) Contract Start Date : (attached explanation required if date is < 60 days after F&A receipt)	1-March-2007	
6) Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	30-November-2009	
7) Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$700,000	
8) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state	
	<input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
9) Description of Service to be Acquired :	Oversight of Records Management System for the Tennessee Fusion Center	
10) Explanation of the Need for or Requirement Placed on the Procuring Agency to Acquire the Service :	The Tennessee Bureau of Investigation will house the Tennessee Fusion Center. The purpose of the Records Management System is to create a data warehouse designed to share information relevant to the investigation and prosecution of suspected criminal incidents, including terrorist incidents.	
11) Explanation of Whether the Procuring Agency Bought the Service in the Past, & if so, What Procurement Method It Used :	No.	
12) Name & Address of the Proposed Contractor's Principal Owner(s) : (<u>not</u> required if proposed contractor is a state education institution)	South Carolina Research Authority is a public, nonprofit corporation of the state of South Carolina located at: 5300 International Boulevard, North Charleston, South Carolina 29418	
13) Evidence of the Proposed Contractor's Experience and Length of Experience Providing the Service:	SCRA's first project was the Low Country Information Technology Improvement Project in South Carolina, which was installed in	

January of 2003. Their second project was the South Carolina Information Exchange, which was installed in April of 2006.

14) Documentation of Office for Information Resources Endorsement:
(required only if the subject service involves information technology)

select one:

☐

Documentation Not Applicable to this Request

☒

Documentation Attached to this Request

15) Documentation of Department of Personnel Endorsement:
(required only if the subject service involves training for state employees)

select one:

X

Documentation Not Applicable to this Request

☐

Documentation Attached to this Request

16) Documentation of State Architect Endorsement:
(required only if the subject service involves construction or real property related services)

select one:

X

Documentation Not Applicable to this Request

☐

Documentation Attached to this Request

17) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives:

The record management system for a fusion center is a very new technological tool that is not readily available. Representatives from the Governor's Office of Homeland Security and the Tennessee Bureau of Investigation visited four states to observe their record management systems. Other states were contacted by phone and asked about their planned systems. The system in use in South Carolina by the South Carolina Law Enforcement Division was the only one that was operational, and it has only been in use since April of 2006.

There is insufficient time to bid this service due to the requirements of the federal Homeland Security grants that will fund it. Various federal grants will be used and have different expiration dates. One of the grants has an expiration date of March 30, 2007 and must be spent by that date, in order for it to be used.

18) Justification of Why the State Should Use Non-Competitive Negotiation Rather Than a Competitive Process:
(Being the "only known" or "best" service provider to perform the service as desired will not be deemed adequate justification.)

The system in use in South Carolina was built around their existing South Carolina Incident Based Reporting System (SCIBRS) framework which is very similar to Tennessee's Incident Based Reporting System (TIBRS). It was also the only system of its kind that met our requirements, such as:

- Being an open-source system;
- Providing the opportunity to allow the local law enforcement agencies the capability to use the system in a way that would allow them to maintain control of their data; and
- Providing the system to the local law enforcement agencies without an additional cost to them.

The "replicator" software that is used to feed the local agency data from their Records Management Systems (RMS) to the data warehouse (being created at TBI) in real-time is controlled by the National Law Enforcement and Corrections Technology Center (NLECTC), a branch of the National Institute of Justice (NIJ), which is the research arm of the Department of Justice. NLECTC acts as a "broker" to find the vendor who can customize, install, and implement this technology. SCRA assisted NLECTC and SLED in the South Carolina project. Based on the success of that project, they have recommended SCRA for the Tennessee project.

REQUESTING AGENCY HEAD SIGNATURE & DATE:

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)

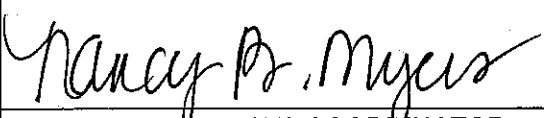

Agency Head Signature

Date

1/23/07

Explanation as to Request Item # 5

Due to the fact that this contract will be paid by several federal grants, one of which expires at the end of March, this contract needs to begin as soon as possible. The milestone that will be paid by the grant that expires at the end of March can be met if the contract begins on March 1.

FA CONTRACT INFORMATION SUPPLEMENT FOR ALL FA-TYPE CONTRACTS — COMPLETE <u>EITHER</u> SECTION A <u>OR</u> SECTION B	
Contract RFS #	348.00 -248
Contractor:	South Carolina Research Authority
SECTION A— CONTRACTOR IS AN INDIVIDUAL	SECTION B— CONTRACTOR IS A COMPANY (e.g., sole proprietorship, partnership, or corporation)
Is or has the contractor been a state employee? <input type="checkbox"/> NO (no additional information required) <input type="checkbox"/> YES	Does an individual, who is or has been a state employee, own controlling interest in (or own) the contractor company? <input checked="" type="checkbox"/> NO (no additional information required) <input type="checkbox"/> YES
Was such employment within the past six months? <input type="checkbox"/> NO <input type="checkbox"/> YES (an approved rule exception permitting a contract within six months of employment is also required)	Was such employment within the past six months? NO <input type="checkbox"/> YES (an approved rule exception permitting a contract within six months of employment is also required)
Does the contractor receive Tennessee Consolidated Retirement System (TCRS) retirement benefits? <input type="checkbox"/> NO <input type="checkbox"/> YES (the procuring agency general counsel MUST sign an analysis of this procurement using the TCRS analysis guidelines)	Does the individual who owns controlling interest in the contractor company receive Tennessee Consolidated Retirement System (TCRS) retirement benefits? NO <input type="checkbox"/> YES (the procuring agency general counsel MUST sign an analysis of this procurement using the TCRS analysis guidelines)
SIGNATURE	
	
SERVICE CONTRACTS COORDINATOR	DATE
	1/22/07



STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE FOR INFORMATION RESOURCES

DAVE GOETZ
COMMISSIONER

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Debbie Dey, data Resource management
Leighanne haynes, IT PLANNING
Mary Frances Jones, Quality Assurance Testing, &
Research
ROGER FELHAM, DATA NETWORKING &
TELECOMMUNICATIONS
Jeanne Smith, special services

memorandum

TO: Brad Truitt, Assistant Director
Ed Jones, MAC Chair
Tennessee Bureau of Investigation

FROM: Jamie Etheridge, Chair
IT Assessment & Budget Committee (IT-ABC)

DATE: February 1, 2007

SUBJECT: Fusion Center Development - 2006014

The IT-ABC has completed a review of the Tennessee Bureau of Investigation's Fusion Center Development project. The IT-ABC recognizes the magnitude of this effort for the TBI and the State of Tennessee. This project is approved to proceed through Phase 1 – the implementation of the Fusion Center and the pilot district, First Tennessee.

Upon completion of the first phase and before moving to the next phase, the Bureau will submit an updated Project Proposal and Cost Benefit Analysis to IT-ABC that reflects actual costs for the first phase and projected costs for the completion of the project. We encourage you to continue working with the IT Planning group and other sections of OIR as you move through the project.

If you have any questions, please call me at 741-7358 or Todd Ragan at 532-0245.

cc: Bill Ezell, Chief Information Officer
Mark Bengel, Deputy Chief Information Officer
IT-ABC Members
Amy Watson, Budget Analyst

FA CONTRACT INFORMATION SUPPLEMENT FOR ALL FA-TYPE CONTRACTS — COMPLETE <u>EITHER</u> SECTION A <u>OR</u> SECTION B	
Contract RFS #	348.00 -248
Contractor:	South Carolina Research Authority
SECTION A— CONTRACTOR IS AN INDIVIDUAL	SECTION B— CONTRACTOR IS A COMPANY (e.g., sole proprietorship, partnership, or corporation)
Is or has the contractor been a state employee? <input type="checkbox"/> NO (no additional information required) <input type="checkbox"/> YES	Does an individual, who is or has been a state employee, own controlling interest in (or own) the contractor company? <input checked="" type="checkbox"/> NO (no additional information required) <input type="checkbox"/> YES
Was such employment within the past six months? <input type="checkbox"/> NO <input type="checkbox"/> YES (an approved rule exception permitting a contract within six months of employment is also required)	Was such employment within the past six months? NO <input type="checkbox"/> YES (an approved rule exception permitting a contract within six months of employment is also required)
Does the contractor receive Tennessee Consolidated Retirement System (TCRS) retirement benefits? <input type="checkbox"/> NO <input type="checkbox"/> YES (the procuring agency general counsel <i>MUST</i> sign an analysis of this procurement using the TCRS analysis guidelines)	Does the individual who owns controlling interest in the contractor company receive Tennessee Consolidated Retirement System (TCRS) retirement benefits? NO <input type="checkbox"/> YES (the procuring agency general counsel <i>MUST</i> sign an analysis of this procurement using the TCRS analysis guidelines)
SIGNATURE	
<div style="height: 40px;"></div>	
SERVICE CONTRACTS COORDINATOR	DATE

Proposed
CONTRACT
BETWEEN THE STATE OF TENNESSEE,
TENNESSEE BUREAU OF INVESTIGATION
AND
SOUTH CAROLINA RESEARCH AUTHORITY

This Contract, by and between the State of Tennessee, Tennessee Bureau of Investigation, hereinafter referred to as the "State" and South Carolina Research Authority, hereinafter referred to as the "Contractor," is for the provision of oversight of a records management system for the Tennessee Fusion Center, as further defined in the "SCOPE OF SERVICES."

The Contractor is a nonprofit corporation. The Contractor's address is: 5300 International Boulevard, North Charleston, South Carolina 29418

The Contractor's place of incorporation or organization is South Carolina.

A. SCOPE OF SERVICES:

- A.1. The Contractor shall help implement a statewide open source data sharing system for the Tennessee Fusion Center.
- A.2. The Contractor shall establish and implement a central data warehouse at the Tennessee Bureau of Investigation and integrate information from agencies within Homeland Security District 1.
- A.3. The Contractor shall assist the State in establishing a governance structure for the project, including the creation of a governance document to be approved by all stakeholders.
- A.4. The Contractor shall assist the State in creating Memorandums of Understanding (MOUs) establishing the requirements for participation.
- A.5. The Contractor shall create a document to detail working points of the software, including but not limited to: replication definition, user interface, functional requirements documents and system test plan.
- A.6. The Contractor shall assist the State in determining the actual sizing of the system and provide a Cisco 11503 Content Switch configured with redundant power supplies and network connections.
- A.7. The Contractor shall work with the records management system vendors for Homeland Security District One to obtain the Law Enforcement Automated Data Replicator (LEADR) adapter currently under development and shall negotiate with said vendors for the purchase of services for installation and implementation of the replicator.
- A.8. The Contractor shall provide a GJXDM based replicator for the TBI records management system (RMS) currently used by agencies in Homeland Security District One. Said replicator shall be based on current GJXDM replicators developed under the NLETCTC license and shall conform to the LEADR Information Exchange Package Documentation (IEPD) for replicating data to a centralized warehouse.
- A.9. The Contractor shall support the installation of base system hardware and software at TBI and shall install and configure the LEADR software for operation.
- A.10. The Contractor shall install the TBI custom replicator at five (5) target agencies using the TBI RMS and validate the data being submitted to the central warehouse.

- A. 11. The Contractor shall manage installation of the vendor custom replicator at the Homeland Security District One agencies utilizing the VisionAir or M&M Microsystems RMS and validate the data being submitted to the central warehouse.
- A.12. The Contractor shall provide monitoring and tuning of the system for seven (7) months; the first month shall include full support, monitoring and tuning in order to ensure optimal performance and to assist TBI staff in learning and assuming the support role.
- A.13. The contractor shall provide three (3) training classes on consecutive days and provide a copy of the user training manual to the State.
- A.14. The Contractor shall assist the TBI to define desired tool sets beyond the current base query interface and develop documentation required for any enhancements to the base system requested by the State or the working group.
- A.15. The Contractor shall work with TBI to develop a roll-out strategy for statewide LEADR implementation and develop a high level project plan for the statewide expansion, including additional enhancement and tools cost proposal.
- A.16. The Contractor shall provide project management, support and subject matter expertise to the State for the life of the contract. The Contractor shall appoint a project manager, who will work closely with the project manager appointed by the State, to ensure the performance of all tasks and associated sub-tasks, and manage all aspects of the project. The Contractor shall provide a detailed project plan within thirty (30) days of approval of this contract. The project plan will detail the steps involved in executing the project.
- A.17. The Contractor shall conduct bi-weekly status meetings and monthly review meetings with all project participants in order to ensure that they are kept informed and provided with feedback and direction.
- A.18. The Contractor shall provide project updates and progress reports to the State, including financial accounting and contract management updates in a format and at scheduled times acceptable to TBI.
- A.19. The Contractor shall provide contract management for all vendors and any lower tier subcontractors, with the requirement to provide the appropriate level of reporting at such times as will facilitate the overall reporting schedule for TBI.
- A.20. Upon completion of A.2. (above), the Contractor shall provide administrator and user training to the personnel of the Tennessee Fusion Center and Homeland Security District 1.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on March 1, 2007 and ending on November 30, 2009. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Seven Hundred Thousand dollars (\$700,000.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or

any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

<u>SERVICE UNIT/MILESTONE</u>	<u>AMOUNT</u>
Milestone 1 – Governance	\$13,500

Task 1.1 Governance Structure

Leveraging prior experience and expertise developed in similar projects, Team SCRA will assist TBI in establishing a governance structure for the project. A governance document will be created clearly spelling out the roles of all participants in the project. All stakeholders will approve this document.

Deliverable(s)

- Governance document

Task 1.2 Memorandum of Understanding

Participation in the program will be accomplished by Memorandums of Understanding (MOU). SCRA will assist TBI in creating a MOU, which clearly spells out the requirements for participation and the role(s) associated with all participants. SCRA will assist TBI in working with the agencies to obtain concurrence with the MOU, which will be executed by the Chief Executive Officer of each participating agency and the Director of the TBI, or his designee.

Deliverable(s)

- Fully executed MOU's for each participating agency

Milestone 2 – Requirements Definition, System Design and Development	\$250,000
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Task 2.1 Functional Requirements

Team SCRA will create a functional requirements document used to detail working points of the software. The functional requirements will include but are not limited to the following items:

- Replication Definition
 - LEADR Replication Adapter
 - TBI managed system(s)
 - VisionAir managed system(s)
 - M&M Microsystems managed system
- User Interface

Color Schemes.

- Functional Requirements Document
- System Test Plan

Task 2.2 Hardware

Team SCRA will assist TBI in determining hardware sizing to support the State of Tennessee. Team SCRA will work with TBI Information Systems Division to determine the actual sizing of the system. These estimates establish a full capacity primary system and a reduced capacity half system. The system architecture is scalable and new hardware can be added in future phases to support additional load as necessary. All hardware will be purchased directly by TBI, with the exception of (1) Cisco 11503 Content Switch configured with redundant power supplies and network connections.

Deliverable(s)

- Detailed hardware and software requirements document
- (1) Cisco 11503 Content Switch configured with redundant power supplies and network connections

Task 2.3 Vendor Subcontract for Replication

Team SCRA will work with the records management system (RMS) vendors for Homeland Security District 1 (VisionAIR and M&M Microsystems) to obtain the Law Enforcement Automated Data Replicator (LEADR) adapter currently under development. Development costs are being paid for by the National Law Enforcement and Corrections Technology Center – Southeast region (NLECTC-SE) in furtherance of the LEADR program. Team SCRA will negotiate to purchase VisionAir and M&M's services for installation and implementation of the replicator.

Deliverable(s)

- Installed version of VisionAIR replicator for Washington County Sheriff's Office, Johnson City Police Department, Sullivan County Sheriff's Department and Bristol Police Department.
- Installed version of M&M Microsystems replicator for Greene County Sheriff's Department and Hawkins County Sheriff's Department.

Task 2.4 TBI In-House Replication

Team SCRA will provide a GJXDM based replicator for the TBI RMS system currently used by other agencies in Homeland Security District 1. This replicator will be based upon current GJXDM replicators developed under the NLECTC license, and will conform to the LEADR Information Exchange Package Documentation (IEPD) for replicating data to a centralized warehouse. It will support the following activity types:

- Incidents
- Arrests
- Warrants
- Custodies
- Citations

The system will be trigger based and will provide a component to transmit data securely to the TBI warehouse. The replicator will be used in subsequent phases for expansion of the TBI warehouse.

Deliverable(s)

Replicator for TBI Managed RMS

Milestone 3 – System Implementation and Testing

\$172,000

Task 3.1 Hardware and Software Installation at TBI

Team SCRA will support the installation of base system hardware and software at TBI. The LEADR software will also be installed and configured for operation.

Deliverable(s)

- Assistance with Base System Hardware and Software installation
- Installation of LEADR Software
- Complete Production Environment Set-up
- Successful Acceptance Testing

Task 3.2 Installation of TBI Replicator At Four Agencies

Team SCRA will install the TBI custom replicator at five of the (5) target agencies utilizing the TBI RMS. Team SCRA will validate data being sent to the central warehouse. The five (5) target agencies include:

- Carter County Sheriff's Department
- Greeneville Police Department
- Hancock County Sheriff's Department
- Jonesborough Police Department
- Johnson County Sheriff's Department

Deliverable(s)

- Acceptance Testing Plan
- Successful Acceptance Test at Each Location

Task 3.3 Installation of Vendor Developed Replicator at Two Target Agencies

Team SCRA will manage installation of the vendor custom replicator at each of the Homeland Security District 1 target agencies utilizing the VisionAIR or M&M Microsystems RMS. Team SCRA will validate data being sent to the central warehouse. The target agencies include:

- Johnson City Police Department
- Washington County Sheriff's Office
- Bristol Police Department
- Sullivan County Sheriff's Office
- Greene County Sheriff's Office
- Hawkins County Sheriff's Office

Deliverable(s)

- Acceptance Testing Plan
- Successful Acceptance Test Each Location

Task 3.4 System Tuning and Support

Team SCRA will provide monitoring and tuning of the system for a period of seven months. The first month will include full support, monitoring and tuning, to ensure that the system is functioning at peak performance and assist TBI Staff in learning and assuming the support role.

Deliverable(s)

- One (1) Month of post-installation support and monitoring
- Three (3) Months direct system support as requested by TBI
- Three (3) Months maintenance as requested by TBI

Milestone 4 – Post Production Training

\$20,000

Task 4.1 User Training

Team SCRA will provide three (3) training classes on back-to-back days. Training sessions will be broken into two (2) three-hour sessions for each day. These sessions will be specific to Administrators or Users as deemed appropriate by TBI. "Train the Trainer" methodology will be utilized so that trainers can return to their agencies and train additional users.

Team SCRA will provide a copy of the user-training manual to TBI. TBI will be responsible for publishing the document to agencies. In order to save on travel costs two days of training will be in Homeland Security District 1 at a TBI designated training center, while the third day will be held at TBI, primarily for TBI personnel.

Deliverable(s)

- Training Guides
- User training

Milestone 5 – Future System Modification

\$128,000

Task 5.1 System Enhancements

Team SCRA will assist TBI to define desired tool sets beyond the current base query interface. Team SCRA will develop necessary documentation for any enhancements to the base system that may be desired by TBI and/or the working group. Team SCRA will assist in coordinating the desires to Tennessee participants with those of other states that implement LEADR to ensure the most cost effective enhancement methodology is utilized to everyone's benefit.

Deliverable(s)

- Documentation of Enhancement Requests
- Detailed Enhancement Requirements Documentation

Task 5.2 System Expansion

Team SCRA will work with TBI to develop a roll-out strategy for statewide LEADR implementation. Team SCRA will develop a high level project plan for the statewide expansion, including additional enhancement and tools cost proposal.

Deliverable(s)

- Project Plan

Milestone 6 – Project Management and Contract Administration

\$116,500

Task 6.1 Project Management

Team SCRA will provide project management, support and subject

matter expertise for the life of the contract. Team SCRA will appoint a Project Manager, who will work closely with the Project Manager appointed by TBI, to ensure the performance of all tasks and associated Sub-Tasks, and manage all aspects of the project. Team SCRA will provide a detailed project plan 30 days after contract execution. The project plan will detail the steps involved in executing the project.

Deliverable(s)

- Project Plan

Task 6.2 Project Coordination

Regular project coordination meetings and/or conference calls, will be held to ensure that all project participants are informed and are provided with feedback and direction. Specific attendance at scheduled meetings may vary depending upon the status or the project and/or topics for the agenda. Times and locations for meetings will be agreed between the TBI and Team SCRA Project Manager. The following Project Coordination Meetings will be conducted:

Deliverable(s)

- Bi-Weekly Status Meetings
- Monthly Review Meetings

Task 6.3 Project Reporting

Team SCRA will provide project updates and progress reports, including financial accounting and Contract management updates, will be provided in a format acceptable to TBI as follows:

- Provide Bi-Weekly Updates first and last months of the project
- Provide monthly reports in all months, not later than the 25th of the month for the previous month

Reported Items:

- High level task status
- Accomplished tasks
- Planned tasks
- Risks
- Financials

Deliverable(s)

- Bi-weekly and monthly Project Reports

Task 6.4 Contract Management

SCRA will serve as the prime to TBI for the project. SCRA will provide contract management for all vendors and any lower tier subcontractors, with the requirement to provide appropriate level of reporting at such times as will facilitate the overall reporting schedule for TBI.

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.
- C.9. Retention of Final Payment. An amount of one hundred sixteen thousand, five hundred (\$116,500.00), representing six percent (6 %) of the maximum total compensation payable under this Contract, shall be withheld by the State until thirty (30) days after final completion of the services to be performed by the Contractor under this Contract.
- D. **STANDARD TERMS AND CONDITIONS:**
- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the

State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document as Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose

physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

- D.9. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- E. SPECIAL TERMS AND CONDITIONS:
- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Brad Truitt, Assistant Director
Tennessee Bureau of Investigation
901 R.S. Gass Blvd., Nashville, TN. 37216
Phone: (615) 744-4008
Facsimile: (615) 744-4041

The Contractor:

Mark H. Payne, Deputy Director
South Carolina Research Authority
5300 International Boulevard, North Charleston, SC. 29418
Phone: (843) 760-4356
Facsimile: (843) 760-5291
Mark.Payne@scra.org

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the

Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- E.4. State Ownership of Work Products. The State shall have all ownership right, title, and interest, including ownership of copyright, in all work products created, designed, developed, derived, documented, installed, or delivered to the State under this Contract. The State shall have royalty-free and unlimited rights to use, disclose, reproduce, or publish, for any purpose whatsoever, all said work products. The Contractor shall furnish such information and data upon request of the State, in accordance with the Contract and applicable State law.
- E.5. State Interest in Equipment—Uniform Commercial Code Security Agreement. The Contractor shall take legal title to all equipment and to all motor vehicles, hereinafter referred to as "equipment," purchased totally or in part with funds provided under this Contract, subject to the State's equitable interest therein, to the extent of its *pro rata* share, based upon the State's contribution to the purchase price. "Equipment" shall be defined as an article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds \$5,000.00.

As authorized by the provisions of the terms of the Tennessee Uniform Commercial Code—Secured Transaction, found at Title 47, Chapter 9 of the ***Tennessee Code Annotated***, and the provisions of the Tennessee Motor Vehicle Title and Registration Law, found at Title 55, Chapter 1 of the ***Tennessee Code Annotated***, an intent of this Contract document and the parties hereto is to create and acknowledge a security interest in favor of the State in the equipment or motor vehicles acquired by the Contractor pursuant to the provisions of this Contract document. A further intent of this Contract document is to acknowledge and continue the security interest in favor of the State in the equipment or motor vehicles acquired by the Contractor pursuant to the provisions of this program's prior year Contracts between the State and the Contractor.

The Contractor hereto grants the State a security interest in said equipment. This agreement is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Contractor hereby grants the State a security interest in said equipment. The Contractor agrees that the State may file this Contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Contractor agrees to execute and deliver to the State, upon the State's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Contract in such form as the State may require to perfect a security interest with respect to said equipment. The Contractor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the State may reasonably require. Without the prior written consent of the State, the Contractor shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment, including replacements and additions thereto. Upon the Contractor's breach of any covenant or agreement contained in this Contract, including the covenants to pay when due all sums secured by this Contract, the State shall have the remedies of a secured party under the Uniform Commercial Code and, at the State's option, may also invoke the remedies herein provided.

The Contractor agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Contract. The Contractor shall maintain a perpetual inventory system for all equipment purchased with funds provided under this Contract and shall submit an inventory control report which must include, at a minimum, the following:

- a. Description of the equipment;

- b. Manufacturer's serial number or other identification number, when applicable;
- c. Consecutive inventory equipment tag identification;
- d. Acquisition date, cost, and check number;
- e. Percentage of state funds applied to the purchase;
- f. Location within the Contractor's operations where the equipment is used;
- g. Condition of the property or disposition date if Contractor no longer has possession;
- h. Depreciation method, if applicable; and
- i. Monthly depreciation amount, if applicable.

The Contractor shall tag equipment with an identification number which is cross referenced to the equipment item on the inventory control report. The Contractor shall inventory equipment annually. The Contractor must compare the results of the inventory with the inventory control report and investigate any differences. The Contractor must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

The Contractor shall notify the State, in writing, of any equipment loss describing reason(s) for the loss. Should the equipment be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the *pro rata* amount of the residual value at the time of loss based upon the State's original contribution to the purchase price.

The Contractor shall submit its inventory control report of all equipment purchased with the final invoice submitted under this Contract. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control.

Upon termination of the Contract, where a further contractual relationship is not entered into, or at another time during the term of the Contract, the Contractor shall request written approval from the State for any proposed disposition of equipment purchased pursuant to this Contract. All equipment shall be disposed of in such a manner as parties may agree from among alternatives approved by Tennessee Department of General Services and in accordance with any applicable federal laws or regulations.

- E.6. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.
- E.7. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.
- E.8. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall

complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

- E.9. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.
- E.10. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.
- E.11. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.12. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.
- E.13. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor shall display in a prominent place, located near the passageway through which the public enters

in order to receive services pursuant to this contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

- E.14. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.15. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.
- E.16. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and persons with a disability. Such reports shall be provided to the state of Tennessee Governor's Office of Business Diversity Enterprise in form and substance as required by said office.

IN WITNESS WHEREOF:

SOUTH CAROLINA RESEARCH AUTHORITY:

MARK PAYNE, DEPUTY DIRECTOR CONTRACTS DATE

MARK PAYNE, DEPUTY DIRECTOR CONTRACTS

TENNESSEE BUREAU OF INVESTIGATION:

MARK GWYN, DIRECTOR DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. GOETZ, JR., COMMISSIONER DATE

DEPARTMENT OF PERSONNEL:

DEBORAH E. STORY, COMMISSIONER DATE

COMPTROLLER OF THE TREASURY:

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY DATE

ATTACHMENT 1**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	SOUTH CAROLINA RESEARCH AUTHORITY
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	57-0736144

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

SIGNATURE & DATE:

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.